



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/871,216	05/31/2001	Marcel F.C. Schemmann	11890/2	6854

26646 7590 02/09/2007
KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

EXAMINER

PHAN, HANH

ART UNIT	PAPER NUMBER
----------	--------------

2613

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/09/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/871,216

Applicant(s)

SCHEMMANN ET AL.

Examiner

Hanh Phan

Art Unit

2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 24-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-11 and 24-29 is/are allowed.
- 6) ☒ Claim(s) 12 and 13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is responsive to the Amendment filed on 11/17/2006.
2. The indicated allowability of claim 13 is withdrawn in view of the newly discovered reference(s) to Gross (US Patent No. 5,222,103) and Bakker et al (US Patent No. 6,459,521). Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 12 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

-In claim 12, line 3, the phrase “**providing a quadrature modulated optical data signal**” is undefined. How a quadrature modulated optical data signal is generated.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 2613

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 12 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Gross (US Patent No. 5,222,103).

Regarding claim 12, referring to Figures 1, 2A, 2B and 3, Gross discloses a method of reducing the transmitted power of a quadrature modulated data signal, comprising the steps of:

providing a quadrature modulated optical data signal (i.e., Fig. 3, col. 1, lines 5-58, col. 4, lines 24-67 and col. 5, lines 1-43); and

during all transitional states of the quadrature modulated optical data signal in which data symbols can change in value, reducing the power to zero such that transmitted power decreases to zero at approximately a mid point of each of the transitional states (i.e., Figs. 1, 2A, 2B and 3, col. 1, lines 5-58, col. 4, lines 24-67 and col. 5, lines 1-43).

Regarding claim 13, Gross discloses further comprising the steps of:

combining the quadrature modulated optical data signal with a side carrier; and transmitting the side carrier with the quadrature modulated optical data signal (i.e., Figs. 1, 2A, 2B and 3, col. 1, lines 5-58, col. 4, lines 24-67 and col. 5, lines 1-43).

7. Claims 12 and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Bakker et al (US Patent No. 6,459,521).

Art Unit: 2613

Regarding claim 12, referring to Figures 2C, 3 and 4, Bakker et al. discloses a method of reducing the transmitted power of a quadrature modulated data signal, comprising the steps of:

providing a quadrature modulated optical data signal (i.e., Figs. 2C and 4, col. 2, lines 1-34, col. 5, lines 12-67 and col. 6, lines 1-30); and

during all transitional states of the quadrature modulated optical data signal in which data symbols can change in value, reducing the power to zero such that transmitted power decreases to zero at approximately a mid point of each of the transitional states (i.e., Figs. 2C and 4, col. 2, lines 1-34, col. 5, lines 12-67 and col. 6, lines 1-30).

Regarding claim 13, Bakker et al. discloses further comprising the steps of:

combining the quadrature modulated optical data signal with a side carrier; and

transmitting the side carrier with the quadrature modulated optical data signal (i.e., Figs. 2C and 4, col. 2, lines 1-34, col. 5, lines 12-67 and col. 6, lines 1-30).

Allowable Subject Matter

8. Claims 1-11 and 24-29 are allowed.

Response to Arguments

9. Applicant's arguments with respect to claims 1-13 and 24-29 have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 2613

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh Phan whose telephone number is (571)272-3035.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan, can be reached on (571)272-3022. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-4700.


HANH PHAN
PRIMARY EXAMINER